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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,281	11/12/2003	Steven Stewart Ibara	WindRein	9319

7590 12/03/2004

Elisa Jones
1745 Creek Dr.
San Jose, CA 95125-1841

EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,281

Applicant(s)

IBARA ET AL. *S*

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 201A*
- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the **Final Office Action** for application number 10/712,281 Page Holder Enabling Unencumbered Manual Page Turning, filed on 11/12/03. Claims 1-20 are pending. This **Final Office Action** is in response to applicant's reply dated 10/20/04. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Information Disclosure Statement

The information disclosure statement submitted on 10/20/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 102

Claims 1-4, 8, 10-14, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5979857 to Holm.

The patent to Holm discloses a page holder (100) applied directly to a book, with a tensioning mechanism (107) which is a self retracting spring (107C) biased reel (107A) set at a predetermined strength, a plurality of clamp gripping members (108), a retaining monofilament line (106) (See Col. 4, line 63 for material selection of line) of a predetermined length, tensioning mechanism (107) attached to one of the gripping

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members (108) and the other end of the line being attached to the second gripping member.

The method of claims 11-14 and 18 are shown by the above structure such as providing a page holder comprising a tensioning mechanism set at a predetermined strength being sufficiently strong to retain pages in an open position, yet sufficiently light to enable page turning, the tensioning mechanism being attached to a first gripping member and the tensioning mechanism dispensing a retaining line, the other end of the line being attached to a second gripping member, providing a support for reading matter and placing reading matter on the support, attaching the gripping members to opposing edges of the support and extending the line across the reading matter, whereby the pages are retained in an open position and whereby a user can turn the page without delay or encumbrance and whereby the remaining pages are secure throughout the page turn, wherein the gripping members are clamps (108) and the tensioning mechanism is a spring biased self-retracting reel and the line is a monofilament.

Claim Rejections - 35 USC § 103

Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5979857 to Holm as applied to claims 1, 3, 11 and 13 above, and in view of United States Patent No. 4826099 to Johnson.

Holms discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the reel is biased by an elastic band nor the method wherein the reel is biased by an elastic band.

Johnson shows a self retracting reel (22) which is biased by an elastic band (26), used for retracting a line into the reel (22), the method being inherent from the structure. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Johnson to have used an elastic band to bias the reel, in order to retract the line into the reel.

Claims 6, 7, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5979857 to Holm as applied to claims 1, 3, 11 and 13 above, and in view of United States Patent No. 6375165 to Sherratt et al.

Holms discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show a tension adjustment control on the reel so that the tension ranges can be between 0.05 N to 0.6 N.

Sherratt et al. shows a winding mechanism with a tension adjustment control (68), used for adjusting the tension of the material wrapped around the reel (20) of the winding mechanism. Sherratt et al. does not disclose the specific tension range of .05N to .6N, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have this range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Aller, 105 USPQ 233. Therefore, both limitations would have been obvious to one having ordinary skill in the

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art at the time of the invention in order to adjust and control the tension of the line as taught by Sherratt et al. in order to control the tension of the line in Holm.

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5979857 to Holm as applied to claims 1, 8, 11 and 18 above, and in view of United States Patent Publication No. 2004/0076825 A1 to Hashimoto et al.

Holms discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show wherein the monofilament is made from polyvinylidene fluoride or the method of providing the monofilament of polyvinylidene fluoride.

Hashimoto et al. discloses monofilaments that are made of polyvinylidene fluoride commonly termed PVDF, used for its resistance to deterioration in the mechanical properties. The method is inherent from the structural teachings in Hashimoto et al. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Hashimoto et al. to have used this material and to have the method of using this material, in order to prevent deterioration of the mechanical properties of the line.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5979857 to Holm as applied to claim 1 above, and in view of United States Patent No. 3813075 to Capper.

Holms discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the device is a clipboard.

Capper shows a book holding device, that is a clipboard, (at 23) used to hold a book or loose pages in place. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Capper to have made the book holding device as a clipboard to hold a book or loose pages in place.

Response to Arguments

The applicant has argued that the rejection under 35 USC 102 does not meet the limitation of a "tensioning mechanism set at a predetermined strength" (See Remarks 10/30/04, page 6, line 21). This is unpersuasive in that the Holms monofilament line (106) is a tensioning mechanism in that it tensions the pages of book to the binder of the book and the line can be set to a predetermined strength, before or during use. (See Holm, Col.5, 29, 30, which recites that , "the monofilament line is tightened to the desired tension by rotating the spool").

The applicant has also argued that the Holm reference does not show gripping members because the Holms element (108) does not grip the book or clamp on to the book itself. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "gripping the book" or "clamping onto the book") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from

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the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The applicant has also argued that the retaining line is not attached to the gripping members (108). This is unpersuasive, in that the line is attached to the gripping members (108) at bolt (108b, See Fig. 9).

The applicant has argued for patentability saying that Holms requires delay and encumbrance and the pages are not secure. This is unpersuasive in that these terms are terms of relativity which without a reference of comparison can be interpreted broadly enough to be read by the device as taught by Holms. For example, the term delay could mean 1 second or an entire year in its broadest reading. Therefore these terms do not render the claims distinguished over the prior art.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Holm and Johnson present a winding application in which combining types of line in the winding application would be generally available at the time of the invention. The substitution of an elastic cord for a monofilament line was well within the knowledge of one of ordinary skill in the art at the time of the invention.

In response to applicant's argument Sherratt et al. in combination with Holm is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both references present winding applications, which is within the same art.

Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

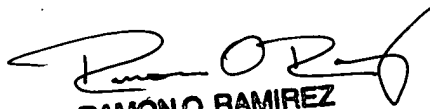
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be

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reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS
Amy J. Sterling
11/23/04



RAMON O. RAMIREZ
PRIMARY EXAMINER